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- and -

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Counsel for Plaintiff and the Proposed Class
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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

PATRICIA MCNEARY-CALLOWAY,
individually and on behalf of all others similarly
situated,

Plaintiff,

v.

JPMORGAN CHASE BANK, N.A. and CHASE
BANK USA, N.A.,

Defendants.

Case No.: 11-cv-03058-JCS

**JOINT STIPULATION TO EXTEND
THE TIME FOR PLAINTIFF TO
RESPOND TO DEFENDANTS'
MOTION TO DISMISS**

Hearing Date: December 9, 2011

Time: 9:30 a.m.

Location: Courtroom G

Judge: Magistrate Judge Joseph C. Spero

[Filed concurrently with Proposed Order
and Declaration of Edward W. Ciolko]

1 Plaintiff Patricia McNeary-Calloway (“Plaintiff”) and Defendants JPMorgan Chase Bank,
2 N.A. and Chase Bank USA, N.A. (collectively, “Defendants”) (together, the “Parties”) respectfully
3 submit the following Joint Stipulation to Extend the Time for Plaintiff to Respond to Defendants’
4 Motion to Dismiss.

5 WHEREAS, Plaintiff filed a Class Action Complaint (the “Complaint”) against Defendants
6 on June 20, 2011 (ECF No. 1);

7 WHEREAS, on August 19, 2011, Defendants filed a Motion to Dismiss Plaintiff’s Complaint
8 (the “Motion to Dismiss”) (ECF No. 23);

9 WHEREAS, pursuant to the Court’s Order Regarding Joint Stipulation to Extend the Time
10 for Plaintiff to Respond to Defendants’ Motion to Dismiss, dated October 3, 2011, Plaintiff’s
11 response to Defendants’ Motion to Dismiss is due to be filed on or before October 10, 2011 (ECF
12 No. 36);

13 WHEREAS, Defendants’ reply to Plaintiff’s response is due to be filed on or before
14 November 2, 2011 (ECF No. 23);

15 WHEREAS, a hearing on Defendants’ Motion to Dismiss is currently scheduled for
16 December 9, 2011 at 9:30 a.m. in Courtroom G before the Honorable Joseph C. Spero (ECF No. 34);

17 WHEREAS, as set forth in the Parties’ Joint Stipulation to Extend the Time for Plaintiff to
18 Respond to Defendants’ Motion to Dismiss, dated September 28, 2011 (ECF No. 35), Plaintiff is
19 preparing to file an amended complaint in this action to add additional parties and/or additional
20 claims;¹

21 WHEREAS, Plaintiff’s counsel contacted counsel for Defendants to discuss the need for
22 additional time to finalize the proposed amended complaint in light of continued discussions with the
23 proposed plaintiff and amongst co-counsel, as well as the upcoming holidays;

24 WHEREAS, after meeting and conferring, the Parties agreed to an extension of seven (7)

25
26 ¹ Rather than filing a motion for leave to file an amended complaint, the Parties are presently
27 negotiating a stipulation and proposed order that would allow Plaintiff to file the amended complaint
28 without the need for motion practice.

1 days for the filing of Plaintiff's opposition to Defendants' Motion to Dismiss, to on or before
2 October 17, 2011, to allow Plaintiff additional time to file her amended complaint prior to October
3 17, 2011;

4 WHEREAS, after conferring in good faith, the Parties have agreed, subject to court approval,
5 that Plaintiff shall have until October 17, 2011 to respond to Defendants' Motion to Dismiss, the
6 date by which Defendants are to file a reply to Plaintiff's response shall remain scheduled for
7 November 2, 2011, and the hearing on Defendants' Motion to Dismiss shall remain calendared for
8 December 9, 2011 at 9:30 a.m.² This stipulation has been reached to provide Plaintiff with
9 additional time needed to finalize the amended complaint, in the interest of avoiding motion practice
10 related to that amendment and to avoid the need for additional filings in the interim which may be
11 affected or mooted by the proposed amendment.

12 **IT IS HEREBY STIPULATED AS FOLLOWS:**

13 Plaintiff shall respond to Defendants' Motion to Dismiss on or before October 17, 2011

14 **IT IS SO STIPULATED.**

15 Dated: October 7, 2011

16 Respectfully submitted,
17 /s/ Edward W. Ciolko
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25 ² In the event that Defendants' Motion to Dismiss remains on the docket, Plaintiff has agreed
26 not to oppose any request by Defendants for an extension of up to two (2) weeks to file a reply to
27 Plaintiff's response to Defendants' Motion to Dismiss, and will join in a stipulation to that effect,
28 even if such an extension would require moving the scheduled hearing.

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Dated: October 7, 2011

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Attorneys for Defendants

Dated: October 11, 2011



FILER'S ATTESTATION

Pursuant to General Order No. 45, § X(B), I attest under penalty of perjury that concurrence in the filing of the document has been obtained from all of the signatories.

DATED: October 7, 2011

**KESSLER TOPAZ
MELTZER & CHECK, LLP**

By: /s/ Edward W. Ciolko
Edward W. Ciolko

CERTIFICATE OF SERVICE

I hereby certify that on October 7, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses of all counsel of record.

/s/ Edward W. Ciolko

Edward W. Ciolko